

REMARKS

This is in response to the Office Action mailed on February 27, 2004. No claims are amended, no claims are canceled and no claims are added. Thus, claims 1-156 remain pending in this application.

Information Disclosure Statement

Applicant is submitting an Information Disclosure Statement and 1449 Form with this Response. Applicant respectfully requests that an initialed copy of the 1449 Form be returned to Applicant's Representative to indicate that the cited references have been considered by the Examiner.

§102 Rejection of the Claims

Claims 137-141, 144, 148-150 were rejected under 35 USC § 102(e) as being anticipated by Schauerte (U.S. Patent Publication 2002/0026228). Applicant respectfully traverses.

With respect to independent claim 137, Applicant is unable to find, among other things, in the cited portions of Schauerte a method in which a device is intravascularly inserted into a biosystem and is used to sense a mechanical parameter and provide therapy, as recited in the claim. The rejection stated:

Schauerte teaches a stent which is introduced intravascularly, and which senses a mechanical parameter such as blood pressure, as taught in paragraph 23, and is connected to a device which provides therapy such as electrical stimulation of selected tissues.

Applicant respectfully traverses the characterization of Schauerte contained in the rejection. The wire item or unit, or stent, of Schauerte is used for stimulation uses [0013, 0024-0035]. Applicant is unable to find a showing or fair suggestion that the wire unit is used to sense a mechanical parameter such as blood pressure. The wire item or unit is connected to an external or implantable stimulation unit [014, 0022-0023], and the stimulation unit further comprises a detection unit connected to one or more measurement probes which detect biological measurements parameters [0023]. Applicant is unable to find a showing or fair suggestion that the stent functions as a measurement probe, or that the measurement probe is used to both detect biological measurement parameters and provide therapy. Furthermore, Applicant is unable to

find a showing or fair suggestion that the stimulation unit is intravascularly inserted. Should the rejection be maintained, Applicant respectfully requests a clear showing of an intravascularly-inserted device used to sense a mechanical parameter and to provide therapy. Claims 138-141, 144 and 148-150 depend on claim 137 and are believed to be patentable at least for the reasons provided with respect to claim 137.

Applicant respectfully requests withdrawal of the rejection, and reconsideration and allowance of the claims.

§103 Rejection of the Claims

Claim 151 was rejected under 35 USC § 103(a) as being unpatentable over Schauerte (U.S. Patent Publication 2002/0026228) in view of Schwartz et al. (U.S. Patent No. 5,607,463). Applicant respectfully traverses. Claim 151 depends on claim 137, and is believed to be patentable at least for the reasons provided with respect to claim 137. Applicant is unable to find, among other things in the combination of Schauerte and Schwartz, a method in which a device is intravascularly inserted into a biosystem and is used to sense a mechanical parameter and provide therapy, as recited in claim 137. Additionally, Applicant is unable to find, in either Schauerte or Schwartz, a fair suggestion to combine the references to provide the method recited in claim 151. Applicant respectfully requests withdrawal of the rejection, and reconsideration and allowance of the claims.

Claim 154 was rejected under 35 USC § 103(a) as being unpatentable over Schauerte (U.S. Patent Publication 2002/0026228) in view of Silver (U.S. Patent No. 6,442,413). Applicant respectfully traverses. Claim 154 depends on claim 137, and is believed to be patentable at least for the reasons provided with respect to claim 137. Applicant is unable to find, among other things in the combination of Schauerte and Schwartz, a method in which a device is intravascularly inserted into a biosystem and is used to sense a mechanical parameter and provide therapy, as recited in claim 137. Additionally, Applicant is unable to find, in either Schauerte or Schwartz, a fair suggestion to combine the references to provide the method recited in claim 154. Applicant respectfully requests withdrawal of the rejection, and reconsideration and allowance of the claims.

Reservation of the Right to Swear Behind References

Applicant maintains its right to swear behind any references which are cited in a rejection under 35 U.S.C. §§102(a), 102(e), 103/102(a), and 103/102(e). Statements distinguishing the claimed subject matter over the cited references are not to be interpreted as admissions that the references are prior art.

Allowable Subject Matter

Applicant acknowledges the allowance of claims 1-136 and 155-156.

Claims 142, 143, 145-147, and 152-153 were objected to as being dependent upon a rejected base claim, but were indicated to be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. Claims 142, 143, 145-147 and 152-153 depend on originally-filed independent claim 137, which is believed to be in condition for allowance for at least the reasons provided above. Applicant respectfully requests reconsideration and allowance of claims 142, 143, 145-147 and 152-153.

Conclusion

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's attorney at (612) 373-6960 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

ADAM W. CATES ET AL.

By their Representatives,

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Date 6-21-04

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: Commissioner of Patents, MS: Amendment, P.O. Box 1450, Alexandria, VA 22313-1450, on this 22 day of June, 2004.

Name

Paula Sichy

Signature

Paula Sichy